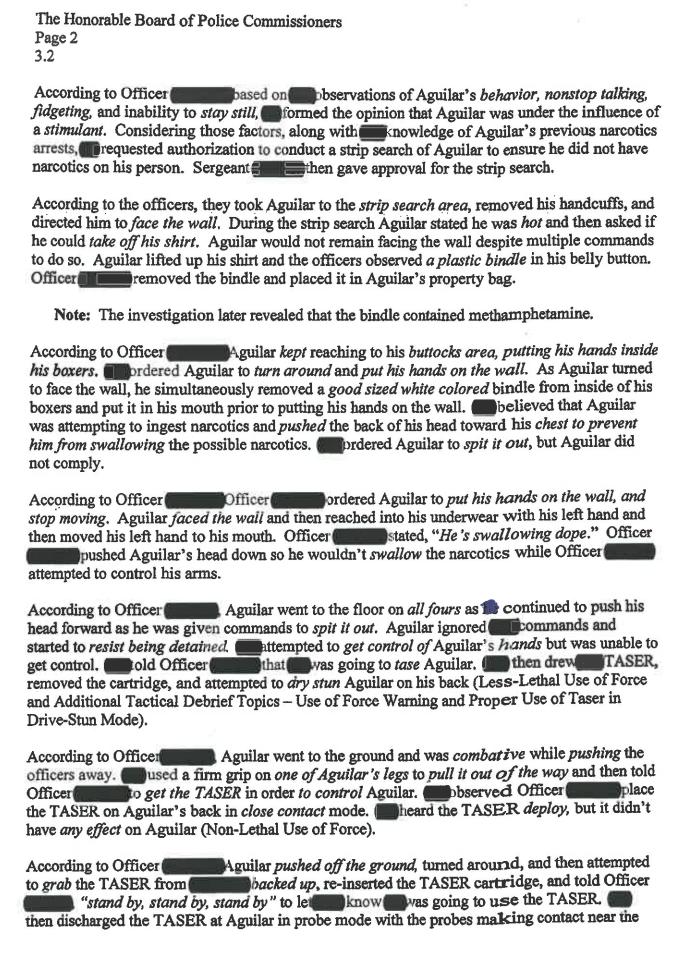
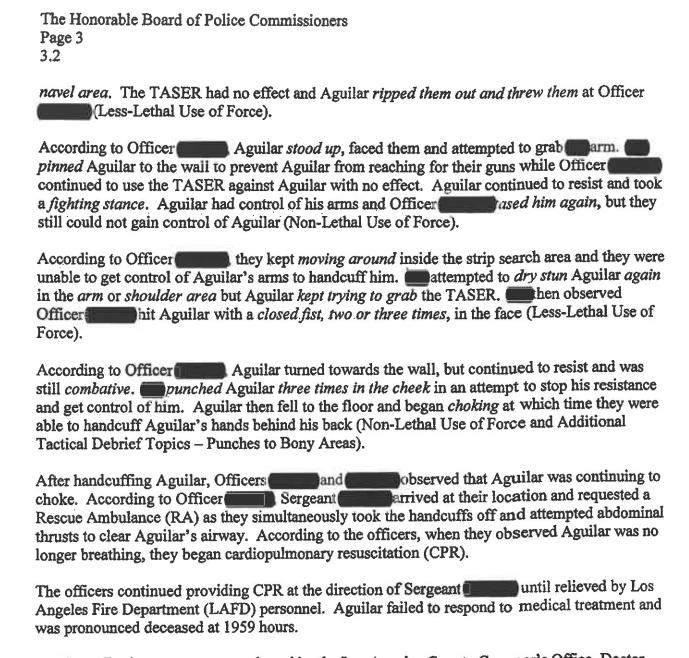
INTRADEPARTMENTAL CORRESPONDENCE

April 6, 2017 3.2 TO: The Honorable Board of Police Commissioners FROM: Chief of Police **SUBJECT:** IN-CUSTODY DEATH FID NO. 034-16 Honorable Members: The following is my review, analysis, and findings for In-Custody Death (ICD), Force Investigation Division (FID) No. 034-16. A Use of Force Review Board (UOFRB) was convened on this matter on March 13, 2017. In this case, the recommended findings were not unanimous with a minority opinion rendered regarding the Less-Lethal Force findings for Officer Serial No. I have carefully weighed each opinion, considered the case in its entirety and adopted the recommendations of the minority opinion. I hereby submit my findings in accordance with Police Commission policy. SUMMARY AND ANALYSIS¹ On June 9, 2016 at approximately 1825 hours, Officers Serial No. Serial No. Harbor Gang Enforcement Detail (GED), responded to a GED unit request at McDonald Street and C Street. According to Officer they were responding to a request for a gang unit to assist with determining if any of the subjects at scene were in violation of any injunction. Immediately recognized one of the subjects as A. Aguilar, because arrested him on a prior occasion for an injunction violation. and Officer determined that Aguilar was in violation of a court ordered gang injunction and placed him under arrest. According to Officer conducted a search for weapons prior to placing Aguilar in the backseat of their police vehicle. While transporting Aguilar to Harbor Station for booking, observed that Aguilar was fidgeting. Upon arrival, they took Aguilar to Sergeant Serial No. Watch Commander, Harbor Patrol Division, for the intake questions. During the intake questions, Aguilar couldn't stay still and kept moving around.





Note: During an autopsy conducted by the Los Angeles County Coroner's Office, Doctor recovered a plastic bindle containing heroin from back of Aguilar's throat. Doctor lietermined the cause of death to be asphyxiation due to an obstructed airway.

During review of the incident, no Debriefing Points were noted.

ADDITIONAL TACTICAL DEBRIEF TOPICS

Simultaneous Commands (Non-Conflicting) – The investigation revealed that Officers and were giving simultaneous commands to the suspect. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance. I will direct that this be a topic of discussion during the Tactical Debrief.

The Honorable Board of Police Commissioners Page 4 3.2

Use of Force Warning – The investigation revealed that the officers did not give Aguilar a use of force warning prior to utilizing the TASER and did not provide a reason for not giving the use of force warning. The officers are reminded to provide a warning, when feasible, prior to using a TASER. Additionally, if a warning is not feasible, the officers are reminded to provide specific reasons to justify their actions. I will direct that this be a topic of discussion during the Tactical Debrief.

Proper Use of TASER in Drive-Stun Mode — The investigation revealed that Officer removed the TASER cartridge prior to activating TASER in drive-stun mode. Officer is reminded that for maximum effectiveness, the cartridge should remain attached to the TASER when the TASER is applied in drive-stun to an area of the body away from the probe impact site. I will direct that this be a topic of discussion during the Tactical Debrief.

Punches to Bony Areas — The investigation revealed that Officer punched Aguilar with a closed fist three times to the bony portion of his face. Fist strikes should be used primarily on soft tissue areas to prevent injury to an officer's hands. Officer s reminded to consider using other force options prior to using fist strikes to bony areas. I will direct that this be a topic of discussion during the Tactical Debrief.

FINDINGS

Tactics - Tactical Debrief,	Officers (and
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Non-Lethal Use of Force - In Policy, No Further Action, Officer

Less-Lethal Use of Force - Out of Policy, Administrative Disapproval, Officer

TACTICS

Department policy relative to Tactical Debriefs is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance." (Los Angeles Police Department Manual, Volume 3, Section 792.05)

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review the officer's individual actions that took place during this incident.

Therefore, I will direct that Officers and and attend a Tactical Debrief and that the specific identified topics are also covered.

Note: Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Radio and Tactical Communication (including Code Six);
- Tactical De-escalation;
- Command and Control; and,
- Lethal Force.

NON-LETHAL USE OF FORCE

It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section 556.10).

Strikes and/or kicks can be used when such force is objectively reasonable to accomplish the following:

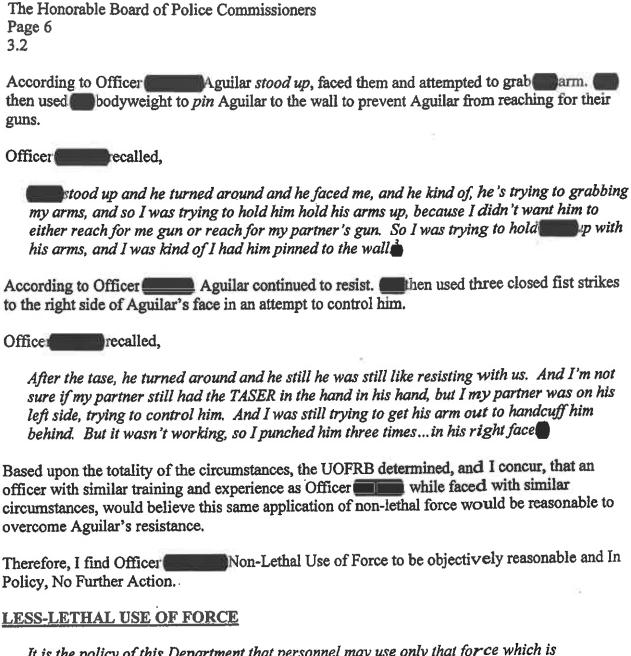
- Overcome active resistance to arrest;
- Create distance from a suspect;
- Protect self or others from injury;
- Stop or stun a suspect; or,
- Distract a suspect (Los Angeles Police Department Use of Force Tactics Directive No. 14, Strikes and Kicks December 2012).

Officer Firm grip, bodyweight, and strikes

According to Officer used a firm grip on one of Aguilar's legs to pull it out of the way.

Officer recalled,

I was trying to like move his foot out of the way, because I was behind him. So I kind of I pulled I kind of pulled one of his legs, just to try to get it out of the way.



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- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance (Los Angeles Police Department Manual, Volume 1, Section *556.10).*

The TASER may be used on suspects who are violent, or who pose an immediate threat to themselves or others when an officer believes:

- Attempts to subdue the suspect with other tactics have been, or will likely be, ineffective in the situation; or
- There is reasonable belief that it will be unsafe for officers to approach within contact range of the suspect.

Verbal threats of violence by a suspect do not alone justify the use of the TASER. Any threat

must be a credible one (Use of Force Tactics Directive No. 4.4, June 2015).
Officer TASER, X26P, one five-second activation and one two-second activation in drive-stun mode, three five-second activations in probe mode.
According to Officer Aguilar went to the floor on all fours and started to resist being detained tempted to control Aguilar's hands but was unable to get control drew TASER, removed the cartridge, and applied the TASER to Aguilar's back. Aguilar then stood up and attempted to take the TASER from the e-inserted the TASER cartridge and then activated the TASER in probe mode, striking Aguilar on his right side. Aguilar continued to resist and the tast activated the TASER two additional times in probe mode to stop Aguilar's actions.
Office recalled,
At that point, I believe I remember telling my partner, I'm going to tase him, I'm going to tase him. As I did that, I stepped back, took my TASER out, took the cartridges out, and attempted to do a dry stun on him. That's when he pushed off the ground. And as I was about to dry stun him, he turned around and tried to grab the TASER from me.
So I backed up, reinserted the probes, and told my partner, stand by, stand by, stand by, to less than know that I'm going to deploy the probes on him. Shot the probes at his navel area. As soon as I made contact, he immediately grabbed them, ripped them out, and threw them at me
I tried to dry stun him again with the probes, the wires still hanging out in his arm area, shoulder area. He just kept trying to grab it like that, trying to grab the TASER, pushing me away, and that's when my partner proceeded to strike him.
Based on the totality of the circumstances, I have determined that an officer with similar training and experience as Officer would not reasonably believe Aguilar's actions were violent or posed an immediate threat to himself or others at the time Officer applied the TASER to Aguilar's back and therefore, the use of Less-Lethal Force would not be objectively reasonable.
Therefore, I find Officer Less-Lethal Use of Force to not be objectively reasonable and Out of Policy, Administrative Disapproval.
54

The Honorable Board of Police Commissioners Page 8 3.2

AUDIO/VIDEO RECORDINGS

Digital In-Car Video System (DICVS) — Officers and police vehicle was equipped with DICVS. Their DICVS captured Aguilar's actions in the backseat of their vehicle while being transported to Harbor Station.

Body Worn Cameras (BWV) - Harbor Area Patrol officers were not equipped with BWV at the time of this incident.

Department Video - Harbor Division jail facility was equipped with surveillance cameras that captured Aguilar being interviewed by Sergeant upon his arrival at Harbor station. The cameras also captured the officers taking Aguilar to the strip search area and LAFD emergency personnel pulling Aguilar into the hallway to administer medical treatment.

No cameras captured the use of force or Aguilar ingesting narcotics.

COMMAND AND CONTROL

Sergeant responded and assumed the role of Incident Commander, requested an RA, and ensured the separation and monitoring of the involved officers. Sergeant respections were consistent with Department supervisory training and my expectations of a field supervisor at a critical incident.

GENERAL TRAINING UPDATE (GTU)

On July 7, 2016, Officers and and attend a GTU. In addition to the mandatory topics, Officers and are received training on In-Custody Death.

Respectfully.

CHARLIE BECK
Chief of Police

Date: 4-6-17